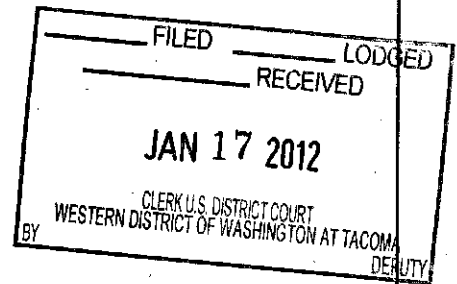


THE HONORABLE KAREN L. STROMBOM



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NICHOLAS J. CENCICH, © •

NO. C10-5164-BHS-KLS

Petitioner,

v.

REPORT AND DECLARATION OF FACTS
ADVISING COURT OF STATUS OF STATE
APPEAL

MAGGIE MILLER-STOUT,

Respondent.

Pursuant to Magistrate Judge Karen L. Strombom's order dated December 19, 2011 instructing me to file a report not later than January 13, 2012 regarding the status of my State appeal issues, I submit the following declaration of facts and updated report.

I. PROCEDURAL HISTORY

1. I received a copy of the aforementioned U.S. District Court Order at Airway Heights Correction Center on or about December 21, 2011.

2. On or about May 28, 2010 the above Court granted my motion to stay and hold in abeyance my habeas corpus proceedings pending full resolution of unresolved issues before the Washington State Supreme Court - SC Case No. 83894-1 (COA No. 38529-5-II).

REPORT AND DECLARATION
OF FACTS ADVISING COURT
OF STATUS OF STATE APPEAL

NICHOLAS CENCICH © • # 767897
PRO SE PETITIONER / DEBTOR
c/o AHCC * P.O. Box 2049 R/A-51L
Airway Heights WA [99001-2049]

1
2 3. On or about May 22, 2011 I filed by mail through DOC authorities at
3 Airway Heights Corrections Center a report and declaration of facts advising
4 the Court of the status of my unresolved State appeal issues as ordered
5 by the Court on May 10, 2011. [Exhibit No. 1]

6 4. To date, I have not received any acknowledgment or response to
7 my May 22, 2011 report from either the U.S. District Court or State's
8 counsel--although a copy of this report was mailed to the Washington State
9 Attorney General's Office. [Exhibit No. 1]

10 II. STATUS REPORT

11 1. The following report updates the Court of the status of my
12 unresolved State appeal issues. I incorporate by reference the report and
13 declaration of facts filed with the Court on or about May 22, 2011 by U.S.
14 Postal Service through DOC authorities. [Exhibit No. 1]

15 2. As indicated in my previous report, the Washington State Supreme
16 Court has not yet filed a written opinion in the Personal Restraint Petition
17 of Joshua Dean Scott, SC Case No. 2-82951-9. [Exhibit No. 2]

18 3. The Scott case continues to be pivotal to my appellate proceedings.

19 4. To the best of my understanding, the Supreme Court's pending
20 decision in the Scott case is deciding whether or not weapon enhancements
21 are "substantive" or procedural in nature.

22 5. To the best of my knowledge and understanding, I cannot proceed
23 with seeking full resolution of my unresolved issues in Washington's
24 appellate court system until their Supreme Court files their written opinion
25 in Scott.

26 6. I believe in good faith that the unresolved issues in my case are
27 of constitutional magnitude and these issues should not be barred under any
28 procedural rule. And these unresolved issues render my Judgment and
Sentence invalid on its face.

1 7. According to the Supreme Court Clerk, the above issues must be
2 properly before the Court to be considered by the Court. I interpret the
3 Clerk's ruling and refusal to file my motion to modify his ruling as an
4 instruction to raise this matter in another proceeding. [Exhibit Nos. 3 & 4]

5 8. In further researching these unresolved appellate court issues, it
6 became apparent that the Supreme Court's pending written opinion in the
7 aforementioned Scott case is pivotal to the question of whether or not the
8 unresolved matters in my case are timely and properly before Washington's
9 appellate courts.

10 III. CONCLUSION

11 Based on the above facts and authorities, the petitioner respectfully
12 requests the stay be continued until the issues regarding defective jury
13 instructions, defective charging documents and invalid judgment and sentences
14 are fully and properly before Washington's appellate courts and fully
15 exhausted as required by federal law.

16 However, if the U.S. District Court, for good cause and in their
17 discretion, decides to lift the stay, I would request that the above
18 identified unresolved state appeal issues be reserved for a second,
19 successive habeas petition by order of the Court.

20 I declare under the penalty of perjury under the laws of the State of
21 Washington, pursuant to RCW 9A.72.065, and the laws of the United States,
22 pursuant to Title 28 U.S.C., section 1746, that the foregoing is true and
23 correct to the best of my knowledge and ability.

24 EXECUTED "WITHOUT PREJUDICE" this 8TH day of January, 2012.

25 s/ NICHOLAS CENCICH, ©
26 Petitioner / Debtor

27 Creditor Accepts Debtor's Signature.
28 Creditor's Signature (Original In Blue Ink)
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All Rights Reserved.

REPORT AND DECLARATION
OF FACTS ADVISING COURT
OF STATUS OF STATE APPEAL

NICHOLAS J. CENCICH © # 767897
PRO SE PETITIONER / DEBTOR
Airway Heights WA [99001-2049]

EXHIBIT NO. 1

Report and Declaration of Facts Advising
U.S. District Court of Status of State Appeal

[Dated May 22, 2011]

**REPORT & DECLARATION
OF FACTS ADVISING COURT OF
STATUS OF STATE APPEAL
(January 8, 2012)**

EXHIBIT NO. 1

THE HONORABLE KAREN L. STROMBOM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NICHOLAS J. CENCICH, (C) (S)

)
) NO. C10-5164-BHS/KLS
)

Petitioner,

)
) REPORT AND DECLARATION OF FACTS
) ADVISING COURT OF STATUS OF STATE
) APPEAL
)

v.

MAGGIE MILLER-STOUT,

Respondent.

)
)
)
)
)

Pursuant to Magistrate Judge Karen L. Strombom's order dated May 10, 2011 instructing me to file a report not later than May 23, 2011 regarding the status of my state appeal issues, I submit the following declaration of facts and report.

I. PROCEDURAL HISTORY

1. I received a copy of the aforementioned U.S. District Court Order at Airway Heights Corrections Center on May 16, 2011.

2. On or about May 28, 2010 the court granted my motion to stay habeas corpus proceedings pending resolution of issues pending before the State Supreme Court -- SC No. 83894-1.

3. On July 6, 2010, the Supreme Court denied my motion to modify commissioner's ruling denying motion for discretionary review of my Personal Restraint Petition (PRP).

REPORT AND DECLARATION
OF FACTS ADVISING COURT
OF STATUS OF STATE APPEAL

NICHOLAS CENCICH (C) (S) # 767897
PRO SE PETITIONER / DEBTOR
c/o AHCC * P.O. BOX 2049 R/A-51L
Airway Heights WA 98001-2049

1
2
3 4. I filed with the State Supreme Court, on or about August 3, 2010,
4 a motion to apply State v. Bashaw, 169 Wn.2d 133 (July 1, 2010) to the facts
5 and issues raised in my Personal Restraint Petition.

6 5. On or about August 3, 2010, I notified the U.S. District Court of
7 the status of the my state appeal status and pending the issues yet to be
8 resolved in the state courts. I also requested that the stay be continued
9 until these issues were fully and fairly presented to the state courts. The
10 U.S. District Court granted this motion and continued the order to stay and
11 hold in abeyance the federal habeas corpus proceedings.

12 6. The Clerk of the Supreme Court, in a letter dated August 5, 2010
13 rejected my "Bashaw motion."

14 7. Petitioner filed a timely Motion to Modify Clerk's Ruling with the
15 State Supreme Court.

16 8. To the best of my knowledge and understanding, the Motion To
17 Modify The Commissioner's Ruling has not been considered by the State
18 Supreme Court Chief Justice or any other judge or this Court.

19 9. Because of limited "in-cell-storage-space" inmates must store
20 legal documents in AHCC's property room located out of the residential
21 units. It takes a minimum of one week to get placed on a call-out to access
22 my legal documents. Therefore, I am unable to provide a copy of the Supreme
23 Court Clerk's letter dated August 5, 2010 rejecting my Motion To Apply
24 Bashaw To The Facts And Claims Raised In PRP; or a copy of my Motion To
25 Modify Clerk's Ruling due to having only four working days to make these
26 arrangements in time for meeting the May 23, 2011 dead-line ordered by the
27 Court.

28 REPORT AND DECLARATION
OF FACTS ADVISING COURT
OF STATUS OF STATE APPEAL

NICHOLAS CENCICH # 767897
PRO SE PETITIONER / DEBtor
c/o AHCC * P.O. BOX 2049 R/A-51L
Airway Heights WA 98001-2049

1
2 II. ISSUES RIPE FOR STATE COURT REVIEW

3 10. Petitioner's appeal issues are not time barred under Personal
4 Restraint Petition of Scott, 149 Wn. App. 231, 202 P.3d 985 (2009) because
5 the 1997 and 2004 judgment and sentences are invalid on their face.

6 11. The State Supreme Court has accepted discretionary review of
7 Scott, case [149 Wn. App. 231, (2009)]. Oral arguments were heard in
8 November 2010. To the best of my knowledge and understanding, as of this
9 date, the Supreme Court has not issued their written opinion in the Scott
10 case.

11 12. The petitioner anticipates that the Supreme Court will hold to the
12 lower court's decision in Scott which held that the court cannot impose a
13 firearm enhancement based solely on a deadly weapon finding. And in so
14 doing the judgment and sentence is invalid on its face. Therefore, the one
15 year time limit for filing a petition or motion for collateral relief from a
16 criminal judgment and sentence does not apply under RCW 10.73.090.

17 13. Other unresolved issues that are not limited to the one-year time
18 bar under RCW 10.73.090 are regarding improper and unconstitutional jury
19 instructions regarding the doctrine of transferred intent and deadly weapon
20 special verdict instructions. The Bashaw court clarified the unanimity
21 confusion in State v. Goldberg, 149 Wn.2d 888, 72 P.3d 1083 (2003).

22 14. The juries in petitioner's 1997 and 2004 trials were instructed
23 with the same instruction in Goldberg. WPIC 160.00--Deadly Weapon Special
24 Verdict instructions.

25
26 REPORT AND DECLARATION
27 OF FACTS ADVISING COURT
28 OF STATUS OF STATE APPEAL

NICHOLAS CENCICH # 767897
PRO SE PETITIONER / DEBTOR
c/o AHCC * P.O. BOX 2049 R/A-51L
Airway Heights WA 99001-2049

1 15. The recent holdings of the Washington State Supreme Court in
2 Goldberg, Bashaw and Scott, supra, are on point with the petitioner's
3 unresolved state appeal issues that must be fully and fairly presented to
4 all levels of the state's appellate court system to meet federal exhaustion
5 requirements prior to changing the order to stay my federal habeas corpus
6 proceedings.

7 16. I am waiting for the State Supreme Court's written opinion in the
8 Scott case to be published since this holding would effect the merits of my
9 pleadings. I anticipate incorporating the court's decision in In re PRP of
10 Scott ___ Wn.2d ___ (2011) in my pleadings before the Washington State
11 courts.

12 III. CONCLUSION

13 Based on the above facts and authorities, the petitioner respectfully
14 requests the stay be continued until the issues regarding jury instructions,
15 charging information documents and the invalid Judgement and Sentences in
16 this case are fully resolved. Petitioner believes these issues are ripe for
17 review and that the Washington State Courts are obligated to address these
18 issues prior to proceeding with the habeas corpus proceedings.

19 Petitioner prays that this request will not inconvenience the Court or
20 prejudice the respondent in this matter. He believes, in good faith, that
21 it is a prudent use of judicial resources to resolve this matter at the
22 lowest state court possible. Only the petitioner will suffer the
23 consequences of continuing the stay because it could result in additional
24 time in prison if it this matter is not resolved in the state courts.

25
26 REPORT AND DECLARATION
27 OF FACTS ADVISING COURT
28 OF STATUS OF STATE APPEAL

NICHOLAS CENCICH ② # 767997
PRO SE PETITIONER / DEBITOR
c/o AHCC * P.O. BOX 2049 R/A-51L
Airway Heights WA 98001-2049

1
2 However, if the U.S. District Court, for good cause and in their
3 discretion, decides to lift the stay of the habeas corpus proceedings, I
4 would request that the above identified unresolved state appeal issues be
5 reserved for a second, successive habeas petition by order of the court.
6

7 I declare under the penalty of perjury under the laws of the State of
8 Washington, pursuant to RCW 9A.72.065, and the laws of the United States,
9 pursuant to Title 28 U.S.C., section 1746, that the foregoing is true and
10 correct to the best of my knowledge and ability.
11

12
13 EXECUTED "WITHOUT PREJUDICE" this 22nd day of MAY, 2011.

14 s/ NICHOLAS CENCICH ©
15 Petitioner/Debtor

16 Creditor accepts Debtor's signature.

17 Creditor's Signature (Original in Blue Ink)

18 Autograph Common Law Copyright © Registered © 1971 by Nicholas John:
19 Cencich. All Rights Reserved.
20
21
22
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26 REPORT AND DECLARATION
27 OF FACTS ADVISING COURT
28 OF STATUS OF STATE APPEAL

NICHOLAS CENCICH © # 767897
PRO SE PETITIONER / DEBTOR
c/o AHCC * P.O. BOX 2049 R/A-511
Airway Heights WA 98001-2049

CERTIFICATE OF MAILING

I certify that, in compliance with FRAP 4(c)(1)—the "Mail Box Rule"—as interpreted in Davis v. Woodford, 446 F.2d 957, 960 9th Cir. 2005), I have turned over the original(s) and/or copy(s) of the documents listed below to the correctional authorities for the Washington State Department of Corrections at Airway Heights Corrections Center, to be deposited in the U.S. Postal Service:

THIS CERTIFICATE OF MAILING

REPORT AND DECLARATION OF FACTS ADVISING COURT OF
STATUS OF STATE APPEAL

To the following entity(s)"

U.S. DISTRICT COURT—WESTERN WASHINGTON AT TACOMA
3100 U.S. COURTHOUSE * 1717 PACIFIC AVENUE
TACOMA, WASHINGTON 98402-3200
ATTEN. THE HONORABLE KAREN L. STROMBOM

JOHN J. SAMSON, ASSISTANT ATTORNEY GENERAL
CORRECTIONS DIVISION * P.O. BOX 40116
OLYMPIA, WASHINGTON 98504-0116

POSTAGE PREPAID

I declare under penalty of perjury under the laws of the State of Washington, pursuant to RCW 9A.72.065, and the laws of the United States, pursuant to Title 28 U.S.C., section 1746, that the foregoing is true and correct.

EXECUTED "WITHOUT PREJUDICE" pursuant to UCC 1-201; 1-207; 3-401 and 3-419(b) on this 22nd day of MAY, 2011.

s/ NICHOLAS CENCICH ©
Petitioner / Debtor

Creditor accepts Debtor's Signature.
Creditor's Signature (In Blue Ink) Nicholas John Cencich
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Cencich. All Rights Reserved.

REPORT AND DECLARATION
OF FACTS ADVISING COURT
OF STATUS OF STATE APPEAL

NICHOLAS CENCICH © # 767897
PRO SE PETITIONER / DEBTOR
c/o AHCC * P.O. BOX 2049 R/A-51L
Airway Heights WA 98001-2049



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<input type="checkbox"/> FUNDS ON HOLD Fondos En Espera	<input checked="" type="checkbox"/> POSTAGE ACCOUNT Cuenta De Correo	<input type="checkbox"/> INDIGENT Indigente	<input checked="" type="checkbox"/> LEGAL MAIL Propiedad	<input type="checkbox"/> PROPERTY Deuda De Franqueo	<input type="checkbox"/> POSTAGE DUE Franqueo A Pagar
OFFENDER NAME (PLEASE PRINT) Nombre (Favor De Usar Letra De Molde) NICHOLAS CENCICHO					
DOC NUMBER DOC Numero 767897			HALL/UNIT Seccion/Unidad R/A-51L		
OFFENDER SIGNATURE Firma Del Preso N. Cencicho			DATE Fecha 05/22/11		
<input type="checkbox"/> INSURED Asegurado		<input type="checkbox"/> US POSTAL SERVICE Servicio De Correo Nacional		<input type="checkbox"/> 1 ST CLASS 1 ^{ER} Clase	
<input type="checkbox"/> CERTIFIED ONLY Certificados Solo		<input type="checkbox"/> GROUND COURIER El Correo De Tierra		<input type="checkbox"/> INSURANCE Seguro	
<input type="checkbox"/> CERTIFIED & RETURN RECEIPT Certificado & Recibo De Vuelta		<input type="checkbox"/> PARCEL POST Servicio De Paquetes Postales		<input type="checkbox"/> PARCEL Parcela	
				<input checked="" type="checkbox"/> FLAT Piso	
				ITEM WEIGHT / Artículo:	
				LBS. LIBRAS	
				OZ. ONZAS	
				DATE MAILED Fecha Del Envio 5/28/11	
				COMMENTS Comentarios REPORT + DECLARATION ORDERED BY COURT	
MAIL ROOM STAFF Oficial del Cuarto De Correo		COUNSELOR SIGNATURE FOR INDIGENT LEGAL MAIL Asesora De Firma Legal Mail Indigente			
NAME / Nombre U.S. DISTRICT COURT WESTERN WASHINGTON AT TACOMA		STREET / Calle 3100 COURTHOUSE • 1717 PACIFIC AVE			
CITY / Ciudad TACOMA		STATE / Estado WA			
<input type="checkbox"/> OUTSIDE USA / Fuera De Estados Unidos		COUNTRY / Pais			

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FRANQUEO A PAGAR

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VOR DE RETIRAR LOS FONDOS SUFICIENTES DE MI CUENTA PARA CUBRIR LOS COSTOS DE ENVIAR LA CARTA/EL PAQUETE ADJUNTA/O.FA

<input type="checkbox"/> FUNDS ON HOLD Fondos En Espera	<input checked="" type="checkbox"/> POSTAGE ACCOUNT Cuenta De Correo	<input type="checkbox"/> INDIGENT Indigente	<input checked="" type="checkbox"/> LEGAL MAIL Propiedad	<input type="checkbox"/> PROPERTY Deuda De Franqueo	<input type="checkbox"/> POSTAGE DUE Franqueo A Pagar
OFFENDER NAME (PLEASE PRINT) Nombre (Favor De Usar Letra De Molde) NICHOLAS CENCICHO					
DOC NUMBER DOC Numero 767897			HALL/UNIT Seccion/Unidad R/A-51L		
OFFENDER SIGNATURE Firma Del Preso N. Cencicho			DATE Fecha 05/22/11		
<input type="checkbox"/> INSURED Asegurado		<input type="checkbox"/> US POSTAL SERVICE Servicio De Correo Nacional		<input type="checkbox"/> 1 ST CLASS 1 ^{ER} Clase	
<input type="checkbox"/> CERTIFIED ONLY Certificados Solo		<input type="checkbox"/> GROUND COURIER El Correo De Tierra		<input type="checkbox"/> INSURANCE Seguro	
<input type="checkbox"/> CERTIFIED & RETURN RECEIPT Certificado & Recibo De Vuelta		<input type="checkbox"/> PARCEL POST Servicio De Paquetes Postales		<input type="checkbox"/> PARCEL Parcela	
				<input checked="" type="checkbox"/> FLAT Piso	
				ITEM WEIGHT / Artículo:	
				LBS. LIBRAS	
				OZ. ONZAS	
				DATE MAILED Fecha Del Envio 5/28/11	
				COMMENTS Comentarios REPORT + DECLARATION ORDERED BY COURT	
MAIL ROOM STAFF Oficial del Cuarto De Correo		COUNSELOR SIGNATURE FOR INDIGENT LEGAL MAIL Asesora De Firma Legal Mail Indigente			
NAME / Nombre JOHN SAMPSON		STREET / Calle CORRECTIONS DIVISION • P.O. Box 40116			
CITY / Ciudad OLYMPIA		STATE / Estado WA			
<input type="checkbox"/> OUTSIDE USA / Fuera De Estados Unidos		COUNTRY / Pais			

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

DOC 02-003 ES (Rev. 11/19/10)

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Pink - Offender

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EXHIBIT NO. 2

WASHINGTON STATE SUPREME CLERK'S E-MAIL
RE: PRP OF JOSHUA DEAN SCOTT [SC Case No. 2-82951-9]

[Dated December 29, 2011]

REPORT & DECLARATION OF
FACTS ADVISING COURT OF
STATUS OF STATE APPEAL
(January 8, 2012)

RE: case no 2-82951-9

From: **OFFICE RECEPTIONIST, CLERK** (SUPREME@COURTS.WA.GOV)
Sent: Thu 12/29/11 8:59 AM
To: 'Connie Myers' (connieswhitedovewood@hotmail.com)

11/16/2010	Heard and awaiting decision
------------	-----------------------------

Case # 829519	Court : SUPREME COURT	Status : Heard
Personal Restraint Petition of Joshua Dean Scott		

From: Connie Myers [mailto:connieswhitedovewood@hotmail.com]
Sent: Thursday, December 29, 2011 8:57 AM
To: OFFICE RECEPTIONIST, CLERK
Subject: case no 2-82951-9

Dear Supreme Court Clerk,

Has there been issued a written opinion under Supreme Court case no 2-82951-9?
Oral arguments were on 11-16-2010.

Thank you for your time and efforts.

EXHIBIT NO. 3
LETTER FROM SUPREME COURT CLERK
[Dated August 5, 2010]

**REPORT & DECLARATION OF
FACIS ADVISING COURT OF
STATUS OF STATE APPEAL
(January 8, 2012)**

THE SUPREME COURT

RONALD R. CARPENTER
SUPREME COURT CLERK

STATE OF WASHINGTON



SUSAN L. CARLSON
DEPUTY CLERK / CHIEF STAFF ATTORNEY

TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

August 5, 2010

LEGAL COPY

Nicholas J. Cencich
#767897 / R/A-51L
Airway Heights Corrections Center
P.O. Box 2049
Airway Heights, WA 99001-2049

Carol L. La Verne
Thurston County Prosecutor's Office
2000 Lakeridge Drive SW, Building 2
Olympia, WA 98502-6045

Re: Supreme Court No. 83894-1 - Personal Restraint Petition of: Nicholas J. Cencich
Court of Appeals No. 38529-5-II

Counsel and Mr. Cencich:

The Petitioner's "MOTION TO APPLY STATE V. BASHAW" (motion), which is dated August 2, 2010, was received on this date and placed in the closed file without further action. The matter is not subject to reconsideration, and the Court does not issue a mandate in a denial of a motion to modify a Court Commissioner's ruling denying a motion for discretionary review, see the last sentence of RAP 12.4(a) as well as RAP 12.5(a) and RAP 12.3(a).

Sincerely,

Ronald R. Carpenter
Supreme Court Clerk

RRC:daf

EXHIBIT NO. 4
SUPREME COURT CLERK'S RESPONSE TO
MOTION TO MODIFY CLERK'S RULING

[Dated September 2, 2010]

REPORT & DECLARATION OF
FACTS ADVISING COURT OF
STATUS OF STATE APPEAL
(January 8, 2012)

EXHIBIT NO. 4

LEGAL COPY

SUPREME COURT
STATE OF WASHINGTON

Personal Restraint
Petition of:

NICHOLAS J. CENCICH[®]

SC CASE NO. 83894-1
(COA NO. 38529-5-II)

MOTION TO MODIFY CLERK'S
RULING (RAP 13.5A(a)(1);
RAP 13.3(e); RAP 17.7)

I. IDENTITY OF MOVING PARTY

NICHOLAS J. CENCICH[®] is the Moving Party/
Petitioner in this case. He is currently residing at
Airway Heights Corrections Center at 11919 West Sprague
P.O. Box 2049 R/A-51L * Airway Heights, Washington 99001.

II. STATEMENT OF RELIEF SOUGHT

The Moving Party, pro se, requests the Chief Justice
of the Washington State Supreme Court to modify the
Clerk's August 5, 2010 Ruling to not consider his MOTION
TO APPLY STATE V. BASHAW, ___ Wn.2d ___ (No. 81633-6 July
1, 2010) and accept review of the issues raised in his
Personal Restraint Petition (SC Case No. 83894-1) in light
of the Bashaw decision.

MOTION TO MODIFY
CLERK'S AUGUST 5,
2010 RULING

NICHOLAS CENCICH[®] # 767897
Petitioner/Moving Party, Pro Se
c/o AHIC * P.O. BOX 2049 R/A-51L
Airway Heights, WA 98001-2049

9/2/10
Placed in closed
file without
further action;
Clerk's
administrative
action
not
subject to
motion to
modify.
Pleading
not
cognizable
as
a
personal
restraint
petition.

CERTIFICATE OF MAILING

I certify that, in compliance with FRAP 4(c)(1)--the "Mail Box Rule"--as interpreted in Davis v. Woodford, 446 F.2d 957, 960 (9th Cir. 2005), I have turned over the original(s) and or copy(s) of the documents listed below to the correctional authorities for the Washington State Department of Corrections at Airway Heights Corrections Center, to be deposited in the United States Postal Service:

THIS CERTIFICATE OF MAILING

REPORT AND DECLARATION OF FACTS ADVISING
COURT OF STATUS OF STATE APPEAL (January 8, 2012)

To the following entity(s):

U.S. DISTRICT COURT--WESTERN WASHINGTON AT TACOMA
3100 U.S. COURTHOUSE * 1717 PACIFIC AVENUE
TACOMA, WASHINGTON 98402-3200
ATTEN. THE HONORABLE KAREN L. STROMBOM

JOHN J. SAMSON, ASSISTANT ATTORNEY GENERAL
CORRECTIONS DIVISION * P.O. Box 40116
OLYMPIA, WASHINGTON 98504-0116

POSTAGE PREPAID

I declare under penalty of perjury under the laws of the State of Washington, pursuant to RCW 9A.72.065, and the laws of the United States, pursuant to Title 28 U.S.C., section 1746, that the foregoing is true and correct.

EXECUTED "WITHOUT PREJUDICE" pursuant to UCC 1-201; 1-308; 3-401 and 3-419(b) (2005 Edition) on this 11th day of JANUARY, 2012.

s/ NICHOLAS CENCICH[®]
Petitioner / Debtor

Creditor Accepts Debtor's Signature
Creditor's Signature (In Blue Ink)
Autograph Common Law Copyright © Registered 1971 by Nicholas John: Cencich. All Rights Reserved.

REPORT AND DECLARATION
OF FACTS ADVISING COURT
OF STATUS OF STATE APPEAL

NICHOLAS CENCICH[®] # 767897
PRO SE PETITIONER / DEBTOR
c/o AHCC * P.O. Box 2049 R/A-51L
Airway Heights WA [99001-2049]